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GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

Department of Panchayat Raj and Community
Development

Directorate of Panchayats

Notification

10/DP/ZP/96

The following draft of certain rules which the Government proposes to make under sub-section (3) of section 133 of the Goa Panchayat Raj Act, 1994 (Goa Act No. 14 of 1994), is hereby pre-published as required by sub-section (1) of section 240 of the said Act, 1994, for information of the persons likely to be affected thereby and notice is hereby given that the said draft Rules will be taken into consideration by the Government on the expiry of fifteen days from the date of publication of this Notification in the Official Gazette.

All objections and suggestions to the said draft Rules may be forwarded to the Secretary in-charge of Panchayats, Government of Goa, Secretariat, Panaji, before the expiry of fifteen days from the date of publication of this Notification in the Official Gazette.

DRAFT RULES

In exercise of the powers conferred by sub-section (3) of section 133 read with sub-section (1) of section 240 of the Goa Panchayat Raj Act, 1994 (Act 14 of 1994), the Government of Goa hereby makes the following rules, namely:—

1. *Short title and commencement.*— (1) These rules may be called the Goa Zilla Panchayat (Election of Adhyaksha and Upadhyaksha) Rules, 1996.

(2) They shall come into force at once.

2. *Definitions.*— In these rules, unless the context otherwise requires,—

(a) 'Act' means the Goa Panchayat Raj Act, 1994 (Act No. 14 of 1994);

(b) 'Administrative Tribunal' means the Administrative Tribunal constituted under section 3 of the Goa Administrative Tribunal Act, 1965 (Act 6 of 1965);

(c) 'Director' means the Director of Panchayats;

(d) 'Form' means a Form appended to these rules;

(e) 'Presiding Authority' means the Director or the officer appointed by him to preside over a meeting called for election of the Adhyaksha or the Upadhyaksha, as the case may be;

(f) 'Section' means a section of the Act;

(g) 'Zilla Panchayat' means a Zilla Panchayat constituted under section 116 of the Act.

3. *Filling of nominations at election of Adhyaksha and/or Upadhyaksha.*— (1) When the Director convenes a special meeting of the elected members of the Zilla Panchayat referred to in clause (i) of Section 117 of the Act for election of the Adhyaksha, and/or Upadhyaksha, the Director shall cause a notice of the date, time and place fixed at least four days before the date of such meeting to be sent to every elected member. Such notice may be issued by the Presiding Authority or by the Executive Officer if so authorised by the Presiding Authority in this behalf. In such notice, the officer to whom nomination papers may be delivered shall also be specified. At any time before noon on the day preceding the date so fixed, a member may nominate another member for election by delivering to the said officer a nomination paper completed in Form I appended hereto signed by himself as proposer.

(2) On presentation of any nomination paper, the said officer shall sign thereon a certificate stating the date and time of presentation of the nomination paper and enter thereon its serial

number.

(3) Any nomination paper which is not received by the said officer before the time specified under sub-rule (1) shall be rejected by him.

(4) All nomination papers received in time by the said Officer shall be delivered by him to the Presiding Authority before the commencement of the meeting or if he himself has been appointed as the Presiding Authority shall be brought by him at the meeting for scrutiny.

(5) A notice of the special meeting shall also be sent for the information of other members of Zilla Panchayat referred to in clause (ii), (iii) and (iv) of section 117 of the Act by the Director. However such members shall have no right to vote at the election of the Adhyaksha or Upadhyaksha.

4. *Mode of serving notice.*— Every notice issued under rule 3 shall, if practicable, be served personally by delivering or tendering it to the member to whom it is addressed or if such person is not found, by giving or tendering it to an adult member or servant of his family found at its usual place of residence, if there is no such person to whom notice can be given or tendered, it shall be served by affixing it on the outer door or some other conspicuous part of the house in which the member ordinarily resides. If none of the aforesaid mode of serving notice is feasible, the notice shall be affixed on some conspicuous part of the house in which the member is known to have last resided.

5. *Members to nominate not more than one candidate.*— No member shall nominate more than one candidate for the office of Adhyaksha and/or Upadhyaksha under rule 3:

Provided that, if a member has nominated more than one candidate for the said offices, the nomination which is received first by the officers specified under sub-rule (1) of rule 3 shall alone be taken into consideration for scrutiny.

6. *Scrutiny of nominations.*— After the commencement of the meeting, the Presiding Authority shall scrutinize all nomination papers presented to him under rule 3, and shall read out at the meeting the names of the members who in his opinion has been duly nominated together with those of their proposers. Any dispute as to the validity of the nomination papers shall be decided by the Presiding Authority.

7. *Withdrawal of candidature.*— (1) After the nomination papers are delivered to the officer so notified by the Director any candidate may at any time before the time fixed for the meeting for elections of Adhyaksha and/or Upadhyaksha as the case may be, withdraw his candidature by a notice in Form II appended hereto in writing subscribed by him and delivered to the Presiding Authority, within fifteen minutes from the time of reading out the names of duly nominated Members under rule 6.

(2) Such notice may be given either by the candidate in person or by his proposer who has been authorised in this behalf in writing by the candidate.

(3) No person who has given a notice of withdrawal of his candidature under sub-rule (1) shall be allowed to cancel the

notice.

(4) The Presiding Authority shall, on being satisfied as regards the genuineness of a notice of withdrawal and the identity of the person delivering it, read out to the members present at the said meeting the names of the persons who have withdrawn their candidature.

8. *Procedure for election.*— (1) If, after withdrawal of candidature, if any, there is only one candidate duly nominated he shall be declared to have been duly elected as the Adhyaksha or Upadhyaksha, as the case may be.

(2) When there are more than one candidate duly nominated, the members present at the meeting shall proceed to elect the Adhyaksha and/or Upadhyaksha, as the case may be, by ballot.

(3) (a) For the purposes of sub-rule (2), the Presiding Authority shall cause the ballot papers to be prepared in Form III appended hereto.

(b) Names of the contesting candidates shall be arranged on the ballot paper in alphabetical order determined with reference to the surnames of the candidates having surnames, and the names proper of other candidates. The particulars in the ballot paper and the alphabetical order to be followed shall be in English.

(4) The ballot paper shall be signed by the Presiding Authority and handed over to each member entitled to vote.

(5) Each member shall record his vote by making a cross (X) against the name of the candidate for whom he wishes to vote, fold the ballot paper so as to conceal his vote and insert the folded ballot paper into the box with a slit kept for the purpose at the place of the meeting. The ballot paper shall not be signed by the voter nor be marked by him in any other way that would reveal his identity.

(6) (a) A member who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on returning it to the Presiding Authority and on satisfying such authority of the inadvertence, obtain another ballot paper, and the ballot paper so returned shall be marked "Spoilt cancelled" by the Presiding Authority.

(b) All ballot papers cancelled under clause (a) shall be kept in a separate packet.

(7) (a) If a voter is illiterate or, owing to blindness, is unable to put a cross on the ballot paper, the Presiding Authority shall record the vote on the ballot paper in accordance with the wishes of the voter.

(b) While acting under clause (a), the Presiding Authority shall observe as much secrecy as is feasible.

(8) The Presiding Authority shall open the box in the presence of the members present and count the votes with the help of the Chief Executive Officer or such other persons as he may appoint.

(9) The Presiding Authority shall reject any ballot paper,—

(a) which is unmarked;

(b) which has crosses marked against more names than one;

(c) the marking on which is uncertain;

(d) which bears the signature or any mark or writing by which in his opinion the voter can be identified.

(10) Where two or more candidates are contesting, the candidate to whom the largest number of valid votes is given, shall be declared elected. If there is an equality of votes, the result shall be decided by draw of lots.

9. *Power to adjourn and hold meeting again if election is not held.*— If, for any reason, the meeting called for election of the Adhyaksha and/or Upadhyaksha, as the case may be, does not result in election of the Adhyaksha and/or the Upadhyaksha, the Presiding Authority shall adjourn the meeting and hold the adjourned meeting on the next day at the same hour for completing the election.

10. *Miscellaneous provisions.*— When elections of both the Adhyaksha and Upadhyaksha are to be held at the same meeting,—

(a) the scrutiny of nomination paper and subsequent stages of the election of the Adhyaksha shall be held first, and then the election of the Upadhyaksha;

(b) if nomination papers have been filled on behalf of a candidate for election as Adhyaksha as well as Upadhyaksha and such candidate has already been declared elected as Adhyaksha, his nomination paper for election to the office of Upadhyaksha shall be deemed to have been withdrawn.

11. *Determination of disputes relating to election of Adhyaksha or Upadhyaksha.*— (1) Any dispute regarding the election of Adhyaksha or Upadhyaksha may be referred in the form of a petition to the Administrative Tribunal for decision by any member feeling aggrieved from the result declared under rule 8:

Provided that no reference shall be entertained by the Goa Administrative Tribunal if the reference has not been received in the Office of the Administrative Tribunal, Goa within a period of ten (10) days from the declaration of result as aforesaid.

(2) A reference received under sub-rule (1) above, may be disposed of by the Administrative Tribunal by passing an order—

- (a) dismissing the reference or;
- (b) declaring the election in dispute to be void or;
- (c) declaring any rival candidate at the election to have been duly elected.

(3) An order passed by the Administrative Tribunal under sub-rule (2) above, shall be final as to the dispute referred in sub-rule (1).

12. *Casual vacancies.*— The provisions of these rules shall mutatis mutandis apply to the election of the Adhyaksha or Upadhyaksha to be held at meeting to be called under section 133:

Provided that in the case of such election, the Adhyaksha of Zilla Panchayat and in his absence the Upadhyaksha, of the Zilla Panchayat and in absence of both or where the Upadhyaksha is a candidate for such elections, such others as the Director may nominate, shall be Presiding Authority for the purposes of these rules.

FORM — I
NOMINATION PAPER

[See sub-rule (1) of rule 3]

Election to the office of *Adhyaksha/*Upadhyaksha of the Zilla Panchayat.

I hereby nominate..... as a candidate for election to the Office of *Adhyaksha/*Upadhyaksha of the Zilla Panchayat.

Full name of the candidate

Full postal address of the candidate

Name of the ward from which the candidate is elected as a Member

Full name of the proposer

Date: (Signature of the Proposer)

DECLARATION BY THE CANDIDATE

I hereby assent to this nomination and signify my willingness to act as *Adhyaksha/*Upadhyaksha of the Zilla Panchayat.

Date: (Signature of the Candidate)

(To be filled by Officer appointed to receive nomination papers).

Serial No. of the nomination paper.....

This nomination paper was delivered to me at..... (hour) on..... (date) by the *proposer/*candidate.

Date..... (Signature of the Officer)

FORM — II

[See rule 7 (1)]

NOTICE OF WITHDRAWAL

Election to the Office of *Adhyaksha/*Upadhyaksha of Zilla Panchayat

To,

The Presiding Authority,

Election to

I, a candidate nominated at the above election, do hereby give notice that I withdraw my candidature.

Place:.....

Date:..... (Signature of Candidate)

This notice was delivered to me at my office at (hours)
on (date) by (name)
the

FORM—III

[See rule 8 (3)]

BALLOT PAPER

Names of Members duly nominated for election as Adhyaksha/
/Upadhyaksha and contesting the election.

Name	Space for putting the cross
1	2
1.	
2.	
3.	
4.	

Presiding Authority
Date: Panchayat

RECEIPT FOR NOTICE OF WITHDRAWAL

(To be handed over to the person delivering the notice)

The notice of withdrawal of candidature by candidate
at the election to the was delivered to me by
the at my office
at (hours) on (date).

Date: (Signature of the Presiding Authority)

* Score out the word not applicable.

By order and in the name of the Governor of Goa.

G. G. Kambli, Director of Panchayats and Ex-Officio Joint
Secretary.

Panaji, 13th December, 1996.

Presiding Authority
..... Panchayat